

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

MARIA MOONEN,

Charging Party,

-v-

ARRIBA RESTAURANT

Respondent.

Case No.: 0061011576

ORDER

On July 5, 2005, Maria Moonen (Moonen) filed a complaint with the Department of Labor and Industry's Human Rights Bureau (Department) alleging that Arriba's Restaurant discriminated against her based on sex and national origin and then retaliated against when she complained that she was being sexually harassed. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Moonen's allegations of unlawful discrimination and retaliation and the Department issued a Notice of Dismissal. Moonen filed objections with the Montana Human Rights Commission (Commission). The Commission considered Moonen's objections without oral argument on March 20, 2006.

The Commission reviewed the decision of the Department to dismiss the complaint using an abuse of discretion standard. *Mont. Code Ann. § 49-2-509(4)(2005); Admin. R. Mont. 24.9.1714(3)*. After careful and due consideration, the Commission concludes the determination of the Department to dismiss the complaint is sufficiently supported by the record and there was no abuse of discretion.

A party may ask a district court to review a decision of the Commission to affirm the dismissal of a complaint. *Admin. R. Mont. 24.9.1714(7); See also Mont. Code Ann. § 2-4-702*. If a charging party chooses to commence a civil action, charging party has

90 days after the receipt of this order to petition a district court, in the district where the alleged violation occurred, for the appropriate relief. *Mont. Code Ann. § 49-2-509(5) (2005); Admin. R. Mont. 24.9.1714(5)*. If a charging party fails to commence a civil action within 90 days, the claim is time barred. *Id.*

IT IS HEREBY ORDERED, that Maria Moonen's objection is **overruled**. The Commission adopts and affirms the determination of the Human Rights Bureau to dismiss the complaint.

DATED this ____ day of March, 2006.

Chair Franke Wilmer
Human Rights Commission

CERTIFICATE OF SERVICE

The undersigned secretary for the Human Rights Commission certifies that a true and correct copy of the foregoing ORDER was mailed to the following by U.S. Mail, postage prepaid, on this _____ day of March 2006.

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Montana Human Rights Bureau